

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Joan H. Lefkow	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	12 C 1866	DATE	4/16/2012
CASE TITLE	Myers vs. Kraft, et al.		

## DOCKET ENTRY TEXT

Plaintiff's application for leave to proceed *in forma pauperis* [4] is granted. All claims against the U.S. Equal Employment Opportunity Commission and Brandi J. Kraft are dismissed with prejudice. The clerk is directed to issue summonses for service of process on defendants Joliet Township High School District 204 and Richard S. Pagliaro by the United States Marshal Service and the United States Marshal Service is directed to serve the complaint on these two defendants only. Plaintiff is directed to file by May 30, 2012 an amended complaint asserting claims only against the Joliet Township High School District 204 and Richard S. Pagliaro. He may use the court's form Complaint of Employment Discrimination, available in the Clerk's Office or on court's website, [www.ilnd.uscourts.gov](http://www.ilnd.uscourts.gov) (see Pro se Litigants [Forms]). See statement below.

■ [ For further details see text below.]

Docketing to mail notices.

## STATEMENT

Cleveland Myers has sued the U.S. Equal Employment Opportunity Commission ("EEOC") and one of its investigators, Brandi J. Kraft, as well as his former employer, the Joliet Township High School District 204 (the "District"), and an assistant superintendent, Richard S. Pagliaro, alleging discrimination in employment in violation of 42 U.S.C. §§ 1981 and 1983, and Title VII of the Civil Rights Act of 1964, as well as several Illinois common law claims. He seeks leave to proceed *in forma pauperis* and has submitted a financial affidavit reflecting that he is unable to pay the filing fee.

Myers contends that Investigator Kraft "knowingly and intentionally neglected" to afford him with the full and equal benefit of a thorough investigation on his November 30, 2010 charge and did not mail out his notice of right to sue dated September 12, 2011 until December 12, 2011, in order to prevent him from filing this law suit against the District and Pagliaro. Against the District and Pagliaro, he claims they unlawfully discriminated against him based on race and retaliated against him because he expressed opposition to discriminatory practices.

This law suit was filed March 14, 2012. The notice of right to sue is dated September 12, 2011 and reflects that, "[b]ased upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes." It advises that plaintiff may file a law suit within 90 days of receipt of the notice. Myers alleges that he received the notice on December 15, 2011. Although the EEOC is required by statute to investigate charges of discrimination, 42 U.S.C. § 2000e-5(b), and to send a notice of right to sue upon request, *id.*

§ 2000e-5(f), Title VII creates no private right of action against the EEOC or any of its investigators for failing to do either. Moreover, plaintiff has suffered no injury as a result. He may pursue his charge by way of a complaint in this court. If plaintiff received the notice on December 15, 2011 (a fact that may be disputed by the District at a later time), his law suit is timely filed. All claims against the EEOC and Kraft

<b>STATEMENT</b>
<p>must be dismissed.</p> <p>Myers is given leave to proceed in forma pauperis. Plaintiff must file an amended complaint against the employer defendants only.</p>